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October 9, 2020

BY CM/ECF

The Honorable Christopher J. Burke
United States District Court
for the District of Delaware
844 King Street
Wilmington, DE 19801

**Re: *Sysmex Corp. et al v. Beckman Coulter, Inc.*,
C.A. No. 19-1642-RGA-CJB**

Dear Judge Burke:

I write on behalf of both parties as required by Paragraph 14 of the Scheduling Order (D.I. 29) concerning the claim construction hearing scheduled for October 28, 2020. The parties have conferred and neither side requests leave to present testimony at the hearing. In addition, the parties respectfully request that the Court set aside a total of three hours for the hearing, with the time being split equally between the parties.

The parties have conferred on the order in which the terms should be argued but have not been able to reach agreement.

Sysmex proposes that the parties argue the terms in the order in which they were presented in the Joint Claim Construction Chart and in the briefing, and that Plaintiffs go first with respect to each term, consistent with the briefing. Accordingly, Sysmex's proposed order is as follows:

- Terms 1 & 2: "a blood measuring mode" & a body fluid measuring mode"
- Term 3: "separately displaying" / "separately display"
- Term 4: "display on an input screen . . ."
- Term 5: "a second test result screen"
- Term 6: "controller programmed to"
- Term 7 & 8: "electrical detector" & "optical detector"
- Term 9: "mono-nucleated cells" & poly-nucleated cells"
- Term 10: "total [count] of nucleated cells"

BCI proposes that term 6 be presented first as it was the only term supported by expert testimony and was the term most extensively briefed. BCI also proposes that it argue first on terms 6-10 as it proposed those terms for construction. Accordingly, BCI's proposed order is as follows:



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- Term 6: “controller programmed to”
- Terms 1 & 2: “a blood measuring mode” & a body fluid measuring mode”
- Term 3: “separately displaying” / “separately display”
- Term 4: “display on an input screen . . .”
- Term 5: “a second test result screen”
- Term 7 & 8: “electrical detector” & “optical detector”
- Term 9: “mono-nucleated cells” & poly-nucleated cells”
- Term 10: “total [count] of nucleated cells”

Counsel would also appreciate the Court’s guidance on whether the argument will be held by telephone or videoconference in light of the ongoing pandemic. As always, counsel remains available at the Court’s convenience should Your Honor have any questions concerning the parties’ proposals.

Respectfully,

/s/ Kelly E. Farnan

Kelly E. Farnan (#4395)

cc: All Counsel of Record (via CM/ECF)